

REMARKS/ARGUMENTS

This submission accompanies an RCE and serves as a response to the Final Office Action of April 30, 2007 issued in connection with the instant application. A Petition for Extension of Time (one month) and the fee therefor are submitted herewith.

Claims 3-8 and 22 are pending in the application.

With the above amendment, claim 21 has been incorporated into claim 3 and has accordingly been canceled.

In the Final Rejection, claims 3-5, 7, 8, 21 and 22 were rejected under 35 USC 103(a) as being unpatentable over Kajino et al. '769. Claims 3-5, 7-11, 21 and 22 were rejected under 35 USC 103(a) as being unpatentable over Hideki (JP 11-087294) and claim 6 was rejected under 35 USC 103(a) as being unpatentable over Hideki in view of Tsuchiya.

In response thereto it is initially noted that the Examiner, in response to prior submissions, has recognized that none of the references actually discloses the parameters of the present claims of heights of lower/upper guide members, width of the vertical opening, the vertical thickness of the atmosphere cutoff plate and the rotating base relative to requisite level positioning, etc. Instead, the Examiner has noted that all such recitations are interpreted as a matter of optimization.

However, in the absence of the need for any optimization, either since only the applicant has recognized a problem which is not known in the prior art or if the structure of elements in the prior art do not give rise to a problem or a feature which requires optimization, then parameters of relative dimension and relative positioning can provide patentable distinction which cannot be dismissed as being mere optimization.

In this regard, the *In re Gardner* case cited by the Examiner for the initial proposition has the cited caveat "...would not perform differently than the prior art device...". It is submitted that the dimensional changes and parameters incorporated in the present claims actually provide a different performance from that of the prior art and that the prior art disclosures show different systems not requiring the claimed dimensional changes and parameters.

Specifically, the claimed relative parameters prevent the splash prevention element from protruding above the atmosphere cutoff plate. Should the splash protection element be positioned above the cutoff plate this would interrupt airflow S (shown in Figure 2 herein) and act as a directing path for the ingress of driven atmosphere (resulting from rotation) into the recovery duct. Since a substrate wafer is nevertheless protected from contact with this atmosphere by the full covering effected by atmosphere cutoff plates as shown in the prior art, such incursion is of no concern according to the prior art and no optimization that would result in the presently claimed invention would be in order. Normal optimization would accordingly lead one skilled in the art away from the present invention. Increase in component thicknesses (without increased strength requirements or the teachings of the present invention) would be avoided from the standpoint of economic considerations (more expensive) and operational considerations (increased weight and bulk in a moving system, necessitating increased complication in design and operation).

However, as first discovered by applicant, and as described in detail on page 19 of the present specification, airflow, as described in the presently disclosed structure would effect a turbulence in the etching fluid, with the real possibility of splashback on the top surface of the wafer, causing a defective substrate (page 19, lines 8-17). This condition is nowhere disclosed, taught or even suggested by the cited prior art. In fact, the disclosure of the systems of the cited Kajino et al and Hideki references show operational structures not susceptible to detrimental splashback. Kajino discloses an upper cutoff plate which holds the substrate for a processing solution to be applied to the lower surface and the cutoff plate is much closer to the substrate and less susceptible to detrimental splashback. Similarly Hideki, from the figure and paragraph shown, forms an air curtain between the rotating base and recovery ducts as a function of gas inlet 32a which would disrupt any incursion of turbulence. Thus, in the systems of the cited prior art, there would be no reason for the optimizations suggested by the Examiner for arriving at the presently claimed invention.

Therefore, it is respectfully submitted that the instant claims clearly define subject matter which has not been disclosed, nor rendered obvious by the prior art of record.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

THIS CORRESPONDENCE IS BEING
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Respectfully submitted,



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